

REMARKS

Applicants want to clarify that The Office Action dated June 14, 2007 was a "restriction Requirement", not a "Non-final Rejection".

Upon entry of the foregoing amendments, claims 10, 12 to 23 will be pending in the present patent application. Claims 1-9, 11 and 24-34 have been withdrawn from consideration because they are directed to non-elected subject matter. Applicants reserve the right to pursue the non-elected subject matter in one or more divisional applications prior to issuance of a patent on the instance application.

Discussion of the Restriction Requirement

In the Action, the Examiner required restriction to one of the following two groups of claims under 35 U.S.C. § 121:

- I. Claims 1-9, drawn to an ultrasonic probe, classified in class 366, subclass 127.
- II. Claim 11, drawn to a different ultrasonic probe, classified in class 428, subclass various.
- III. Claims 10, 12-23 drawn to an ultrasonic processing system, classified in class 310, subclass 328.

In response, Applicants elect to prosecute the claims of Group III, **WITH TRAVERSAL**. Applicants, however, respectfully request reconsideration of the Restriction Requirement because the Action has not shown that a serious burden would be imposed upon the Examiner if all of the claims were searched and examined together.

It is well-settled that whether restriction is proper depends upon whether a serious burden exists:

[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

(M.P.E.P. § 803 (8th ed., August 2001). Applicants submit respectfully that the Action has provided **no** evidence or reasoning to show that the requisite serious burden exists.

Applicants respectfully submit that the examination of Groups I, II and III would **not** present an undue burden on the Examiner because a search for one ultrasonic probe would yield references that detail other ultrasonic probes and the ultrasonic probe assembly (the Examiner's "an ultrasonic processing system") of **how** such an ultrasonic probe is used in an ultrasonic probe assembly . Thus, searching Groups I, II and III together should not pose an undue burden on the Examiner. Accordingly, reconsideration and withdrawal of the restriction requirement are requested respectfully.

If the present restriction requirement is maintained, Applicants request respectfully that, upon identification of allowable subject matter of the elected "an ultrasonic processing system" claims, the non-elected claims that are commensurate in scope with the allowed "an ultrasonic processing system" claims be rejoined in accordance with MPEP § 821.04. If such should occur, Applicants request the opportunity to further amend the rejoined claims prior to their examination.

The Commissioner is hereby authorized to charge any fee required and any additional fees or credits that may be needed to Deposit Account No. 01-0493 in the name of Air Products and Chemicals, Inc.

Respectfully submitted,

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